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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,589	05/31/2007	Fergus Francis Murray	URQUH-73865	9567
24201 7590 12/16/2008 FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			EXAMINER HENKEL, DANIELLE B	
			ART UNIT	PAPER NUMBER
			1797	
			MAIL DATE	DELIVERY MODE
			12/16/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/575,589

**Applicant(s)**

MURRAY ET AL.

**Examiner**

DANIELLE HENKEL

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 7/17/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Summary***

1. This is the initial Office action on the 10/575589 application filed on 4/12/2006.
2. Claims 1-13 are pending and have been fully considered.

### ***Information Disclosure Statement***

3. The information disclosure statement filed July 17, 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1, and 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over SILLEY (US 5861305) in view of FINDLEY (US 4892830).
- a. With respect to claim 1, SILLEY teaches a laboratory apparatus comprising first (central lock) and second cabinets (Column 5, lines 42-44, Figure 1) interconnected by a passageway with means for closing the passageway (Column 6, lines 1-11). SILLEY also teaches the first cabinet has an open front (front door) (Column 5, lines 45-46) and the second cabinet being substantially sealed (Column 5, lines 66-67) with means for controlling the temperature and the level of at least one gas in the second cabinet (Column 2, lines 15-29) as well as means to allow external inspection of the contents of the second cabinet (Column 1, lines 49-52). SILLEY also teaches controlling the atmosphere of the first cabinet (Column 2, lines 19-29) but does not explicitly disclose means for

circulating the air. However, FINDLEY teaches a laboratory apparatus with means to circulate air (intake, outlet vents, and fans) in the chamber (Column 4, lines 28-44). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the laboratory apparatus of SILLEY to include the air circulation means as taught by FINDLEY because it allows for conditioning the air to provide the desired atmosphere (Column 4, lines 28-44).

b. With respect to claim 4, SILLEY teaches providing means for controlling the temperature inside the first and second cabinets (Column 2, lines 15-17).

c. With respect to claim 5, SILLEY teaches the limitations of the claim but does not explicitly disclose the passageway comprising first and second closures. However, FINDLEY teaches a laboratory apparatus including a passageway (airlock) with spaced apart means for closing the passageway comprising first and second closures (internal, external doors) (Column 6, lines 37-43). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the passageway of SILLEY to include the first and second spaced apart closures as taught by FINDLEY because they prevent the loss of control of gas component concentrations, humidity, and temperature levels in the apparatus while allowing the easy transfer of biological materials to the inside of the apparatus (Column 6, lines 28-35).

d. With respect to claim 6, FINDLEY teaches the closures are interlocked to provide a time delay between opening of the closures (Column 6, lines 40-61) to prevent the undesirable loss of control of gas concentrations, humidity and

temperature levels while transferring materials by maintaining the sealed condition of the second cabinet (Column 6, lines 28-35).

e. With respect to claim 7, FINDLEY also teaches providing means for changing the air in the space between the two closures (gas inlet) because it prevents the passageway from becoming the source of the admission of atmospheric air into the cabinet (Column 7, lines 5-10).

f. With respect to claim 8, FINDLEY also teaches providing means for transporting the cultures between the first and second cabinets through the passageway (sliding tray) because it allows for easily transferring the cultures into and out of the cabinet (Column 6, lines 44-67).

g. With respect to claim 9, SILLEY teaches the means for controlling the level of gas in the cabinet is arranged to control the level of oxygen (Column 1, lines 53-54, and Column 2, lines 15-17).

h. With respect to claim 10, SILLEY does not explicitly disclose providing means for controlling the humidity in the second cabinet. However, FINDLEY teaches means for controlling the humidity (water reservoir) in the cabinet because high humidity is necessary to prevent excessive evaporation of the culture media in which the biological materials being maintained in the cabinet are stored (Column 4, lines 37-44).

i. With respect to claim 11, SILLEY teaches providing means for creating a pressure inside the cabinet which is greater than atmospheric pressure (Column 4, lines 33-39).

- j. With respect to claim 12, SILLEY teaches the second cabinet comprises a transparent front wall through which the cultures can be inspected (Column 1, lines 51-52).
  - k. With respect to claim 13, SILLEY teaches providing means to enable manipulation of the cultures in said second cabinet (Column 6, lines 12-34).
7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over SILLEY (US 5861305) in view of FINDLEY (US 4892830) as applied to claims 1, 4-13 above, and in further view of LUETKEMEYER (US 5858041).
- a. With respect to claim 2, the above combination of SILLEY and FINDLEY teaches the limitations of the claim including circulating the air, but does not explicitly disclose the circulated air is passed through a filter. However, LUETKEMEYER teaches a laboratory apparatus in which a HEPA filter is used to alleviate the risk of contamination of the culture by airborne particles in the circulated air in the first cabinet (clean zone) (Column 4, lines 39-62). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the laboratory apparatus as taught by the combination of SILLEY and FINDLEY to include the filter for circulating air as taught by LUETKEMEYER because it maintains a clean laboratory zone from airborne particles (Column 4, lines 47-56).
  - b. With respect to claim 3, the combination of SILLEY and FINDLEY teaches a laboratory apparatus with air circulated in the first cabinet as described in the

above rejection of claim 1, but does not explicitly disclose the airflow being a laminar flow extending downwardly. However, LUETKEMEYER teaches a laboratory apparatus (flow hood) which has a downwardly (vertical) laminar flow parallel to the open front of the cabinet (Column 1, lines 24-44). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the laboratory apparatus of SILLEY and FINDLEY to include the vertical laminar flow as taught by LUETKEMEYER because it protects workers or users of the cabinet as well as the surrounding environment from coming into contact with toxic or irritant substances that are manipulated inside the cabinet (Column 1, lines 24-44).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIELLE HENKEL whose telephone number is (571)270-5505. The examiner can normally be reached on Mon-Thur: 7:30am-5pm, Alternate Fridays: 7:30am-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DBH

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1797